

**UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NORTH CAROLINA  
Docket No. 4:95-CR-57-4F  
EASTERN DIVISION**

**FILED**  
**MAR 12 2007**  
DENNIS P. IAVARONE, CLERK  
U.S. DISTRICT COURT, EDNC  
DEP. CLK

**United States Of America**

**vs.**

**Michael Smith**

**AMENDED  
MOTION FOR REVOCATION**

Michael Smith appeared before the Honorable James C. Fox, Senior U.S. District Judge, sitting in the court at Wilmington, North Carolina on Monday, March 18, 1996, and pursuant to an earlier plea of guilty to Conspiracy to Possess With Intent to Distribute in Excess of 50 Grams of Cocaine Base, was sentenced to the custody of the Bureau of Prisons for a term of 90 months. It was further ordered that upon release from imprisonment the defendant be placed on supervised release for a period of 60 months. The court ordered that the defendant abide by the standard conditions of supervision. The court imposed the following additional conditions:

1. The defendant shall participate as directed in a program approved by the probation office for the treatment of narcotic addiction, drug dependency, or alcohol dependency which will include urinalysis testing or other drug detection measures and may require residence or participation in a residential treatment facility.
2. The defendant shall consent to a warrantless search by a United States Probation Officer or, at the request of the probation officer, any other law enforcement officer, of the defendant's person and premises, including any vehicle, to determine compliance with the conditions of this judgment.
3. The defendant shall submit a written weekly report to the probation office, if not regularly employed, of attempts to secure gainful employment.

Smith was released from custody on December 31, 2001, at which time the term of supervised release commenced. On October 28, 2003, as a result of a positive urinalysis for cocaine, his conditions were modified, ordering that he be confined for two days, and adding a DROPS condition.

On November 10, 2004, the defendant appeared with counsel pursuant to a Motion for Revocation citing new criminal conduct, and after the court having heard evidence presented denied the Motion for Revocation and continued supervision under the original terms and conditions.

On March 29, 2005, Smith appeared with counsel pursuant to a Motion for Revocation for cocaine use. Supervision was revoked and an active sentence of 24 months was imposed. Additionally, it was ordered that the defendant be placed on supervised release for a term of thirty-six months under the standard conditions of supervised release.

Smith was released from custody on October 2, 2006, at which time the term of supervised release commenced. On October 23, 2006, the conditions of supervision were modified to include, drug aftercare, DROPS and participation in vocational training via a Petition for Action on Supervised Release.

Smith tested positive for cocaine on January 4, 2007 and February 12, 2007. Consequently, he served a five day DROPS sanction beginning on February 16, 2007.

Since that time the following violations have been noted:

Violation 1 - Using a controlled substance.

On March 1, 2007, during a random community contact, Smith admitted to the probation officer that he had smoked crack cocaine earlier in the day. He was instructed to report to the probation office on March 4, 2007 for urinalysis testing.

On March 12, 2007, Smith submitted a drug screen with results positive for cocaine. He admitted that he last used crack cocaine on March 9, 2007.

Violation 2 - Frequenting places where controlled substances are illegally sold.

On March 1, 2007 and March 8, 2007, the probation officer observed Smith on Imperial Street Greenville, NC, an area known to be frequented by "crack" users.

Violation 3 - Failure to report to the probation officer as directed by the court or probation officer.

The defendant has failed to report to the probation officer as instructed on the following dates: March 4, 2007 and March 9, 2007.

Violation 4 - Failure to participate as directed by the probation officer in a program of urinalysis testing.

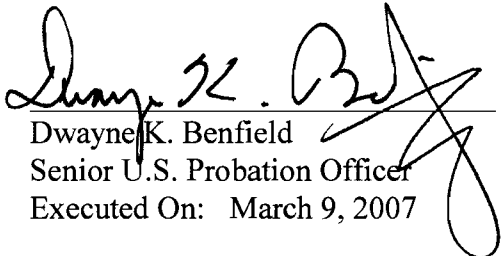
On February 12, 2007, the probation officer gave Smith specific instructions to begin participation in the Surprise Urinalysis Program (SUP). The defendant failed to report pursuant to SUP for a drug screen on the following dates: February 28, 2007 and March 2, 2007.

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In view thereof, we respectfully show the court that Michael Smith has violated the terms and conditions of the judgment originally imposed in this case as outlined above.

This the 9th day of March, 2007.

I declare under penalty of perjury that  
the foregoing is true and correct.

  
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Dwayne K. Benfield  
Senior U.S. Probation Officer  
Executed On: March 9, 2007